ORDINANCE NO. __09-96__

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW A WAIVER OF PLAT PURSUANT TO HIALEAH CODE §98-831 AND GRANTING A SPECIAL USE PERMIT (SUP) TO ALLOW AN AUTOMOTIVE TOWING BUSINESS ON PROPERTY ZONED M-1 (INDUSTRIAL DISTRICT). **PROPERTY LOCATED AT 7755 WEST 4 AVENUE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of October 28, 2009 recommended approval of this ordinance; and

WHEREAS, the Petitioner proffers to a declaration of restrictive covenants describing the improvements on the site and consenting to the repeal and rescission of the Special Use Permit should the business change ownership, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1:   The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2:   The below-described property is hereby granted a variance permit to allow a waiver of plat pursuant to Hialeah Code §98-831, and a special use permit (SUP) to allow an automotive towing business. Property located at 7755 West 4 Avenue, Hialeah, Miami-Dade County, Florida, zoned M-1 (Industrial District), and legally described as follows:

THE EAST 320.00 FEET OF THE WEST 995.50 FEET
OF THE NORTH 372.00 FEET OF THE SOUTH 4,328.00
FEET, OF SECTION 30, TOWNSHIP 52 SOUTH,
RANGE 41 EAST, MIAMI-DADE COUNTY, FLORIDA.

Section 3: **Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: **Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed $500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: **Additional Penalties upon Violation of the Conditions of Use and/or Declaration of Restrictive Covenants.**

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants, will cause a revocation of the Special Use Permit and of the city occupational license issued in connection herewith and the property shall revert to the zoning classification without the benefit of the special use and associated variances.

Section 6: **Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent

jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 7: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.
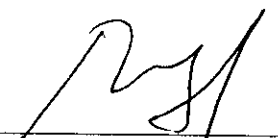
PASSED and ADOPTED this 24th day of __November__ , 2009.

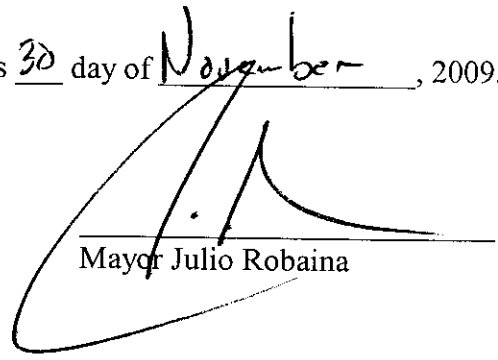Carlos Hernandez
Council President

Attest: Approved on this 30 day of November , 2009.
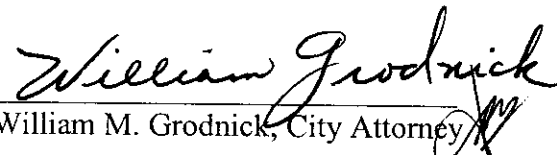
Rafael E. Granado, City Clerk   Mayor Julio Robaina

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

S:\LEB\LEGISLATION\2009-ORDINANCES\7755W4AVE-waiverofplat-SUPtowing-PZOCT28-08.doc

Ordinance was adopted by a 6-0 vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Gonzalez, Hernandez, Yedra voting "Yes", Councilmember Garcia-Martinez absent.